

ITEL
Pullman
 April 5, 1989

Istel Rail Corporation

55 Francisco Street
 San Francisco, California 94133
 (415) 984-4000
 (415) 781-1035 Fax

Date _____

Fee \$ _____

16285

RECORDATION NO. _____ FILED 1423

Hon. Noreta R. McGee
 Secretary
 Interstate Commerce Commission
 Washington, DC 20423

ICC Washington, D. C.

APR 12 1989 - 11 20 AM

INTERSTATE COMMERCE COMMISSION

Re: Schedule No. 1 to Master Lease Agreement dated March 31, 1989, between Istel Rail Corporation, Istel Railcar Corporation and Wisconsin & Calumet Railroad Company

Dear Ms. McGee:

On behalf of Istel Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$13 recordation fee.

Please record this Schedule under the Master Lease Agreement dated March 31, 1989, between Istel Rail Corporation, Istel Railcar Corporation and Wisconsin & Calumet Railroad Company, which is being filed with the ICC simultaneously this date.

The parties to the aforementioned instrument are listed below:

Istel Rail Corporation and
 Istel Railcar Corporation (Lessors)
 55 Francisco Street
 San Francisco, California 94133

Wisconsin & Calumet Railroad Company (Lessee)
 203 South Pearl Street
 Janesville, Wisconsin 53545

This Schedule adds to the Master Lease Agreement one hundred fifty (150) 70-ton, Plate B dual 45' flatcars bearing reporting marks WICT 1500-1549.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

Patricia Schumacker

Patricia Schumacker
 Legal Department

APR 12 1989 -11 20 AM

INTERSTATE COMMERCE COMMISSION

THIS INSTRUMENT IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF HELLER FINANCIAL, INC. UNDER THE HELLER SCHEDULE NO. 1 FINANCIAL, INC. LOAN AND SECURITY AGREEMENT WITH ITEL RAIL CORPORATION DATED AS OF SEPTEMBER 30, 1986.

THIS SCHEDULE No. 1 ("Schedule") to that certain Lease Agreement, (the "Agreement") made as of March 31, 1989 between ITEL RAIL CORPORATION and ITEL RAILCAR CORPORATION, severally, as lessors, and WISCONSIN & CALUMET RAILROAD COMPANY, INC., as lessee ("Lessee") is made this 31st day of March, 1989, between ITEL RAIL CORPORATION ("Lessor") and Lessee.

Lessor and Lessee agree as follows:

1. Except as provided herein, all terms defined in the Agreement shall have the meanings defined therein when used in this Schedule.
2. Lessor hereby leases the following Cars to Lessee subject to the terms and conditions of the Agreement and this Schedule:

AAR Mech Desig	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
FC	70-Ton, Plate B Dual 45 Flatcars	WICT <u>1500</u> <u>1649</u>	89'4"	9'	----	----	150

3. The term of the Agreement with respect to each Car described in this Schedule shall commence at 12 noon on the date and at the location such Car is remarked pursuant to Subsection 3.A. and shall continue as to all of the Cars described in this Schedule for a period of three (3) years from the earlier of (i) the date on which the last Car described in this Schedule was remarked or (ii) the sixtieth (60th) day after the first Car described in this Schedule was delivered (the "Term"). Upon the delivery of the last Car described in this Schedule, Lessor shall provide Lessee with a Certificate of Delivery, in the form of Exhibit A attached hereto, including the date of remark for each Car and the expiration date of the Agreement with respect to the Cars described in this Schedule. Unless, within fifteen (15) days of such notice, Lessee demonstrates to the reasonable satisfaction of Lessor that such expiration date is incorrect, Lessee shall be deemed to have concurred to such expiration date.
4. Each Car shall be deemed delivered and subject to the terms and provisions of the Agreement at 12 noon on the date and at the location such Car is remarked ("Delivery"). When a Car has been remarked, it shall be moved to Lessee's railroad line at no initial cost to Lessee at the earliest time that is consistent with the mutual convenience and economy of the parties. Notwithstanding that Lessee may not have immediate physical possession of the Cars leased hereunder, Lessee agrees to pay the rent set forth in the

Agreement. In order to move the Cars to Lessee's railroad line and to ensure optimal use of the Cars, Lessor agrees to assist Lessee in monitoring Car movements and, when deemed necessary by Lessee and Lessor, to assist in the issuance of movement orders with respect to such Cars to other railroad lines in accordance with the Interstate Commerce Commission ("ICC") and the Interchange Rules.

5.
 - A. Lessor shall perform the registration and record keeping required for the Cars described in this Schedule, as described in Section 4 of the Agreement. Lessee hereby authorizes Lessor to subscribe to the car hire data exchange tape, Train 62 Junction Advices, and the Train 65, 67 and 80 Advices with respect to the Cars and agrees to execute any documents necessary to implement such authorization. If, for any reason, Lessor does not subscribe to Train 65 and 67 Advices, Lessee shall, within ten (10) days after the close of each calendar month, supply Lessor with copies of Lessee's interchange records with respect to Cars interchanged to and from Lessee's railroad line.
 - B. If Lessee's reporting marks are on any Cars, then Lessee shall provide Lessor with the UMLER passkey necessary for registering such Cars and shall authorize Lessor to receive the UMLER Fleet Tape. Lessee shall, within thirty (30) days of notification that Lessor has paid a car repair bill for equipment bearing reporting marks not leased to Lessee by Lessor or for which Lessee is responsible for the cost of maintenance as set forth in the Agreement (or any other agreement between Lessor and Lessee), Lessee shall reimburse Lessor for any amount paid.
 - C. Lessor shall perform car hire accounting for any equipment acquired or leased by Lessee from a party other than Lessor, which equipment bears the same reporting marks as any Car for which Lessor performs car hire accounting ("Other Equipment"). Such car hire accounting shall be performed upon terms to be agreed upon between the parties, which terms shall be set forth in a separate car hire service agreement ("Car Hire Agreement"). Under such Car Hire Agreement, Lessor shall, on behalf of Lessee, receive car hire rental and other payments relating to the use and handling of the Other Equipment by other railroads ("Funds") and shall deposit the Funds into an Agency Bank Account for the purpose of segregating the Funds from the Revenues (as defined in Section 8 hereinbelow) relating to the Cars so as to ensure that the interests of both Lessor and Lessee are protected. Such Car Hire Agreement shall provide that Lessee shall pay Lessor on a monthly basis a fee which is mutually agreeable to Lessor and Lessee.
6. Lessor shall perform or cause to be performed and shall pay all costs and expenses associated with the maintenance of the Cars described in this Schedule, except as set forth in Section 5 of the Agreement (as modified by Exhibit B attached hereto); provided, however, that Subsection 5.A. of the Agreement shall not apply with respect to such Cars.
7. Lessor agrees to reimburse Lessee, within thirty (30) days of Lessor's receipt of the receipted copy of the paid tax bill, for all taxes actually paid in cash by Lessee resulting from: 1) ad valorem tax assessments on

the Cars; and 2) any assessment, levy or impost relating to any Car, the Agreement, or the delivery of the Cars, which remained unpaid as of the date of the delivery of the Cars to Lessee or which is assessed, levied or imposed during the term of the Agreement, except taxes on income or gross receipts imposed on Lessee or sales or use tax imposed on mileage charges, car hire revenue, or the proceeds of the sale or lease of the Cars. Lessor and Lessee will comply with all state and local laws requiring filing of ad valorem returns associated with the Cars. Notwithstanding any portion of this Section, Lessor shall not be responsible for penalty or interest assessments resulting from Lessee's failure to comply with any regulation or statute of any taxing or assessing authority. Lessee shall forward to Lessor upon receipt all correspondence, notifications of proposed tax assessments and tax bills associated with any tax reimbursable by Lessor. Lessor may, in good faith and by appropriate proceedings, contest any assessment, notification of assessment or tax bill. Lessor shall assume full responsibility for all expenses, including legal fees, resulting from such contest.

8. Rent

A. Definitions

- (i) "Eligible Lines" is defined as the railroad lines owned and operated by Lessee as of the date this Schedule is executed by the parties. Unless Lessor and Lessee agree otherwise, any lines purchased by Lessee or added to the Eligible Lines or any Eligible Lines sold by Lessee to another party, effective on the date of such sale, during the Term are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Revenues (as defined in Subsection 8.A.(iii) hereinbelow).
- (ii) "Revenue Rates" is defined as the hourly and mileage car hire rates specified for each Car in the Hourly and Mileage Car Hire Rate Table published in the January 1989 edition of The Official Railway Equipment Register.
- (iii) "Revenues" is defined as the total revenues, calculated at the Revenue Rates, that are earned or due for the use and handling of the Cars on all railroad lines other than the Eligible Lines, including, but not limited to, per diem and mileage, whether or not collected and received by Lessor, and undiminished by any claimed abatement, reduction or offset caused by any action or failure of Lessee.
- (iv) The "Utilization Rate" of the Cars shall be determined by a fraction, the numerator of which is the aggregate number of days in each calendar year that Revenues were earned on the Cars commencing upon the Initial Loading (as defined hereinbelow), and the denominator of which is the aggregate number of days in each calendar year that the Cars were on lease to Lessee, commencing upon the Initial Loading.

- (v) The "Base Rent" per calendar quarter ("Quarter") is defined as the cash equivalent that represents the Revenues which the Cars would have earned in the aggregate if the Cars had been on railroad lines other than Eligible Lines of the hours that such Cars were subject to the Agreement during such Quarter, with each Car travelling miles per day.
 - (vi) "Initial Loading" of a Car shall be the earlier to occur of either: 1) the date such Car shall have been loaded off Lessee's railroad line with the first load of freight; or 2) the thirty-first (31st) day after such Car is first received on Lessee's lines.
- B. Lessor shall receive all Revenues earned by each Car prior to its Initial Loading. Each Car delivered pursuant to Subsection 3.A. of the Agreement shall become subject to the rental calculation under Subsection 8.C. hereinbelow upon the Initial Loading of such Car.
- C. Lessee agrees to pay the following rent to Lessor for the use of the Cars:
- (i) In the event Revenues earned in any calendar quarter or applicable portion thereof are equal to or less than the Base Rent, Lessor shall retain a sum equal to
 - (ii) In the event Revenues earned in any calendar quarter or applicable portion thereof exceed the Base Rent, Lessor shall retain an amount and Lessee shall receive
- D.
- (i) In the event that as a result of any action or inaction by Lessee, Lessor shall receive or earn for the use of any Cars, Revenues calculated at hourly or mileage car hire rates that are lower in amount than those specified in Subsection 8.A. (ii), Lessee shall pay to Lessor, within ten (10) days of written request, an amount equal to the difference between the Revenues such Cars would have earned at the Revenue Rates and the amount of revenues actually received or earned for such Cars.
 - (ii) Upon any abatement, reduction or offset as described in Subsection 8.A.(iii), Lessee shall, within ten (10) days of Lessor's request, reimburse Lessor for such amounts.
 - (iii) If, at any time during the Agreement, Lessee operates lines other than the Eligible Lines, then Lessee shall supply Lessor with records which distinguish the movement of each Car on the Eligible Lines from the movement of such Car on any other lines operated by Lessee.

- E. The calculations required in Section 8 shall be made within five (5) months of the end of each calendar year ("Final Calculations"). Lessor shall, prior to making such Final Calculations, retain the Revenues and other payments received by it on behalf of Lessee. Further, since the parties desire to determine on a quarterly year-to-date basis the approximate amounts owed under this Section 8, Lessor shall within three (3) months after the end of each calendar quarter, calculate on a quarterly year-to-date basis the amounts due both parties pursuant to this Section. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that within twenty (20) days following the Final Calculations, any amount paid to either party in excess of the amounts required shall be refunded to the appropriate party.
- F. If, with respect to any Quarter, Revenues received by Lessor for the Cars in the aggregate while they were on railroad lines other than Eligible Lines are less than
then Lessor may so
notify Lessee. Within ten (10) days of receipt of such notice from Lessor, Lessee shall either:
- (i) Pay Lessor the difference ("Difference") between the Base Revenues and the actual Revenues for such Quarter and agree in writing to pay any Difference for any subsequent Quarter in which such Difference occurs for the duration of the term of the Agreement with respect to the Cars in this Schedule. Lessee shall pay Lessor such Difference not later than sixty (60) days after receiving an invoice for such Difference.
 - (ii) Elect not to pay Lessor such Difference for such Quarter. In such event, Lessor may terminate all or any of the Cars described in this Schedule from the Agreement upon not less than thirty (30) days' written notice to Lessee at any time during the duration of the Agreement.
- G. If any Car has remained on Lessee's property because Lessee has not given preference to the Car as specified in Subsection 3.B. of the Agreement, Lessee shall be liable for and remit to Lessor an amount equal to the revenues which would have been generated if such Car had been in the physical possession and use of a railroad for the entire period during which such Car is on Lessee's property, with each Car travelling one hundred seventy-five (175) miles per day.
9. If the Utilization Rate of the Cars described in this Schedule
during the entire Term of
the Agreement, then upon the expiration of the Agreement with respect to the Cars described in this Schedule, Lessee shall be responsible for all costs associated with the remark and transportation of each Car as provided in Subsections 11.A.(ii), 11.A.(iii) and Section 11.C. of the Agreement; provided, however, that in the event a contractor chosen by Lessor remarks each Car, then Lessee shall be responsible for a cost of no greater than
per Car for such remark.

10. If the Utilization Rate of the Cars described in this Schedule is _____ in the aggregate during the entire Term of the Agreement, then upon the expiration of the Agreement with respect to the Cars described in this Schedule, Lessor shall be responsible for any costs associated with the remark and transportation of each Car.
11. A. Upon the expiration or termination of the Agreement with respect to the Car(s) listed on this Schedule, if pursuant to the storage provisions as set forth in Section 11.A.(i) of the Agreement, such Car remains in storage beyond the free storage period, Lessor shall pay to Lessee, within thirty (30) days after receiving an invoice from Lessee, a daily storage rate of _____ per Car for each day the Car(s) remains in storage after the free storage period.
- B. Upon the early termination of the Agreement with respect to any Car listed on this Schedule, if pursuant to the storage provisions as set forth in Section 11.B.(i) of the Agreement such Car remains in storage beyond the free storage period, Lessor shall pay to Lessee, within thirty (30) days after receiving an invoice from Lessee, a daily storage rate of _____ per Car for each day the Car(s) remains in storage after the free storage period.
12. Except as expressly modified by this or any other Schedule, all terms and provisions of the Agreement shall remain in full force and effect with respect to all Cars subject to the Agreement.
13. This Schedule may be executed by the parties hereto in any number of counterparts, and all counterparts taken together shall be deemed to constitute one instrument.

ITEL RAIL CORPORATION

By: _____

Title: _____

Date: _____

WISCONSIN & CALUMET RAILROAD CO., INC.

By: _____

Title: _____ President

Date: _____ 3/28/89

EXHIBIT A

CERTIFICATE OF DELIVERY DATE

Exhibit A to Schedule No. 1 dated as of _____, 1989, to Lease Agreement dated as of _____, 1989, by and between ITEL RAIL CORPORATION ("Lessor") and WISCONSIN & CALUMET RAILROAD COMPANY, INC. ("Lessee").

CAR REPORTING
MARKS AND NUMBER

DELIVERY DATE

The last day of the Term for the above referenced Cars shall be

_____.

ITEL RAIL CORPORATION

By: _____

Title: _____

Date: _____

EXHIBIT B

Running Repairs: TOFC/COFC Flatcars

Angle Cocks	Wheel Assemblies
Air Hose	Yokes
Train Line	Knuckles/Pins
Operating Levers and Brackets	Slack Adjuster
Sill Steps	Pedestal Locks
Grab Irons	Couplers
Brake Shoes	Draft Gears
Brake Shoe Keys	Coupler Carriers
Brake Connecting Pin	Center Plate Repair (Not Replacement of Center Plate)
Brake Head Wear Plates	Lube of Hitches
Air Brakes	Cotter Keys
Hand Brakes	Roller Bearing Adapters
Brake Beams and Levers	Air Hose Supports
Truck Springs	

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 31st day of March, 1989, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Rail Corporation, that the foregoing Schedule No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sharon L. Van Fossan
Notary Public



STATE OF Illinois)
) ss:
COUNTY OF Cook)

On this 28th day of March, 1989, before me personally appeared R. E. Smith, to me personally known, who being by me duly sworn says that such person is President of Wisconsin & Calumet Railroad Company, Inc., that the foregoing Schedule No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

